

1 **H. B. 2728**

2
3 (By Delegates Paxton, Kump, Sobonya, Miller,
4 Poore, Guthrie, Phillips, L., Staggers,
5 Wells and Hamilton)
6

7 [Introduced February 26, 2013; referred to the

8 Committee on Veterans' Affairs and Homeland Security then the

9 Judiciary.]
10

11 A BILL to amend and reenact §17C-13-6 of the Code of West Virginia,
12 1931, as amended, relating to allowing a disabled veteran
13 operating a vehicle bearing a disabled veteran special
14 registration plate to park in a designated accessible parking
15 space without an accessible parking special registration plate
16 or windshield placard.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §17C-13-6 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 13. STOPPING, STANDING AND PARKING.**

21 **§17C-13-6. Stopping, standing or parking privileges for persons**
22 **with a mobility impairment; definitions;**
23 **qualification; special registration plates and**
24 **removable windshield placards; expiration;**
25 **application; violation; penalties.**

1 (a) (1) The commissioner may issue up to two special
2 registration plates or removable windshield placards to a person
3 with a mobility impairment or a West Virginia organization which
4 transports persons with disabilities and facilitates the mobility
5 of its customers, patients, students or persons otherwise placed
6 under its responsibility.

7 (2) Special registration plates or placards may only be issued
8 for placement on a Class A or Class G motor vehicle registered
9 under the provisions of article three, chapter seventeen-a of this
10 code.

11 (3) The applicant shall specify whether he or she is applying
12 for a special registration plate, a removable windshield placard or
13 both on the application form prescribed and furnished by the
14 commissioner.

15 (4) The applicant shall submit, with the application, a
16 certificate issued by any physician chiropractor, advanced nurse
17 practitioner or physician's assistant who is licensed in this
18 state, stating that the applicant has a mobility impairment or that
19 the applicant is an organization which regularly transports a
20 person with a mobility impairment as defined in this section. The
21 physician chiropractor, advanced nurse practitioner or physician's
22 assistant shall specify in the certificate whether the disability
23 is temporary or permanent. A disability which is temporary shall
24 not exceed six months. A disability which is permanent is one

1 which is one to five years or more in expected duration.

2 (5) Upon receipt of the completed application, the physician's
3 certificate and the regular registration fee for the applicant's
4 vehicle class, if the commissioner finds that the applicant
5 qualifies for the special registration plate or a removable
6 windshield placard as provided in this section, he or she shall
7 issue to the applicant a special registration plate (upon
8 remittance of the regular registration fee) or a removable
9 windshield placard (red for temporary and blue for permanent), or
10 both. Upon request, the commissioner shall also issue to any
11 otherwise qualified applicant one additional placard having the
12 same expiration date as the applicant's original placard. The
13 placard shall be displayed by hanging it from the interior rearview
14 mirror of the motor vehicle so that it is conspicuously visible
15 from outside the vehicle when parked in a designated accessible
16 parking space. The placard may be removed from the rearview mirror
17 whenever the vehicle is being operated to ensure clear vision and
18 safe driving. Only in the event that there is no suitable rearview
19 mirror in the vehicle may the placard be displayed on the dashboard
20 of the vehicle.

21 (6) Organizations which transport people with disabilities
22 will be provided with a placard which will permit them to park in
23 a designated area for the length of time necessary to load and
24 unload passengers. These vehicles must be moved to a nondesignated

1 space once the loading or unloading process is complete.

2 (b) As used in this section, the following terms have the
3 meanings ascribed to them in this subsection:

4 (1) A person or applicant with a "mobility impairment" means
5 a person who is a citizen of West Virginia and as determined by a
6 physician, allopath or osteopath, chiropractor, advanced nurse
7 practitioner or physician's assistant licensed to practice in West
8 Virginia:

9 (A) Cannot walk two hundred feet without stopping to rest;

10 (B) Cannot walk without the use of or assistance from a brace,
11 cane, crutch, prosthetic device, wheelchair, other assistive device
12 or another person;

13 (C) Is restricted by lung disease to such an extent that the
14 person's force (respiratory) expiratory volume for one second, when
15 measured by spirometry, is less than one liter or the arterial
16 oxygen tension is less than sixty mm/hg on room air at rest; or

17 (D) Uses portable oxygen;

18 (E) Has a cardiac condition to such an extent that the
19 person's functional limitations are classified in severity as Class
20 III or Class IV according to standards established by the American
21 Heart Association; or

22 (F) Is severely limited in his or her ability to walk because
23 of an arthritic, neurological or other orthopedic condition;

24 (2) "Special registration plate" means a registration plate

1 that displays the international symbol of access, as adopted by the
2 Rehabilitation International Organization in 1969 at its Eleventh
3 World Congress on Rehabilitation of the Disabled, in a color that
4 contrasts with the background, in letters and numbers the same size
5 as those on the plate, and which may be used in lieu of a regular
6 registration plate;

7 (3) "Removable windshield placard" (permanent or temporary)
8 means a two-sided, hanger-style placard measuring three inches by
9 nine and one-half inches, with all of the following on each side:

10 (A) The international symbol of access, measuring at least
11 three inches in height, centered on the placard, in white on a blue
12 background for permanent designations and in white on a red
13 background for temporary designations;

14 (B) An identification number measuring one inch in height;

15 (C) An expiration date in numbers measuring one inch in
16 height; and

17 (D) The seal or other identifying symbol of the issuing
18 authority.

19 (4) "Regular registration fee" means the standard registration
20 fee for a vehicle of the same class as the applicant's vehicle;

21 (5) "Public entity" means state or local government or any
22 department, agency, special purpose district or other
23 instrumentality of a state or local government;

24 (6) "Public facility" means all or any part of any buildings,

1 structures, sites, complexes, roads, parking lots or other real or
2 personal property, including the site where the facility is
3 located;

4 (7) "Place or places of public accommodation" means a facility
5 or facilities operated by a private entity whose operations affect
6 commerce and fall within at least one of the following categories:

7 (A) Inns, hotels, motels and other places of lodging;

8 (B) Restaurants, bars or other establishments serving food or
9 drink;

10 (C) Motion picture houses, theaters, concert halls, stadiums
11 or other places of exhibition or entertainment;

12 (D) Auditoriums, convention centers, lecture halls or other
13 places of public gatherings;

14 (E) Bakeries, grocery stores, clothing stores, hardware
15 stores, shopping centers or other sales or rental establishments;

16 (F) Laundromats, dry cleaners, banks, barber and beauty shops,
17 travel agencies, shoe repair shops, funeral parlors, gas or service
18 stations, offices of accountants and attorneys, pharmacies,
19 insurance offices, offices of professional health care providers,
20 hospitals or other service establishments;

21 (G) Terminals, depots or other stations used for public
22 transportation;

23 (H) Museums, libraries, galleries or other places of public
24 display or collection;

1 (I) Parks, zoos, amusement parks or other places of
2 recreation;

3 (J) Public or private nursery, elementary, secondary,
4 undergraduate or post-graduate schools or other places of learning
5 and day care centers, senior citizen centers, homeless shelters,
6 food banks, adoption agencies or other social services
7 establishments; and

8 (K) Gymnasiums, health spas, bowling alleys, golf courses or
9 other places of exercise or recreation;

10 (8) "Commercial facility" means a facility whose operations
11 affect commerce and which are intended for nonresidential use by a
12 private entity;

13 (9) "Accessible parking" formerly known as "handicapped
14 parking" is the present phrase consistent with language within the
15 Americans with Disabilities Act (ADA).

16 (10) "Parking enforcement personnel" includes any law-
17 enforcement officer as defined by section one, article twenty-nine,
18 chapter thirty of this code, and private security guards, parking
19 personnel and other personnel authorized by a city, county or the
20 state to issue parking citations.

21 Any person who falsely or fraudulently obtains or seeks to
22 obtain the special plate or the removable windshield placard
23 provided for in this section and any person who falsely certifies
24 that a person is mobility impaired in order that an applicant may

1 be issued the special registration plate or windshield placard
2 under this section is guilty of a misdemeanor and, upon conviction
3 thereof, in addition to any other penalty he or she may otherwise
4 incur, shall be fined \$500. Any person who fabricates, uses or
5 sells unofficially issued windshield placards to any person or
6 organization is committing a fraudulent act and is guilty of a
7 misdemeanor and, upon conviction thereof, in addition to any other
8 penalty he or she may otherwise incur, shall be fined \$500 per
9 placard fabricated, used or sold. Any person who fabricates, uses
10 or sells unofficially issued identification cards to any person or
11 organization is committing a fraudulent act and is guilty of a
12 misdemeanor and, upon conviction thereof, in addition to any other
13 penalty he or she may otherwise incur, shall be fined \$700 per
14 identification card fabricated, used or sold. Any person who
15 fabricates, uses or sells unofficially issued labels imprinted with
16 a future expiration date to any person or organization is
17 committing a fraudulent act and is guilty of a misdemeanor and,
18 upon conviction thereof, in addition to any other penalty he or she
19 may otherwise incur, shall be fined \$700. Any person covered by
20 this section who sells or gives away their officially issued
21 windshield placard to any person or organization not qualified to
22 apply or receive the placard and then reapplies for a new placard
23 on the basis it was stolen is committing a fraudulent act and is
24 guilty of a misdemeanor and, upon conviction thereof, in addition

1 to any other penalty he or she or they may otherwise incur, shall
2 lose their right to receive or use a special placard or special
3 license plate for a period of not less than five years.

4 (c) The commissioner shall set the expiration date for special
5 registration plates and permanent removable windshield placards on
6 the last day of a given month and year, to be valid for a minimum
7 of one year but not more than five years, after which time a new
8 application must be submitted to the commissioner. After the
9 commissioner receives the new application, signed by a certified
10 physician chiropractor, advanced nurse practitioner or physician's
11 assistant the commissioner shall issue: (I) A new special
12 registration plate or new permanent removable windshield placard;
13 or (ii) official labels imprinted with the new expiration date and
14 designed so as to be placed over the old dates on the original
15 registration plate or windshield placard.

16 (d) The commissioner shall set the expiration date of
17 temporary removable windshield placards to be valid for a period of
18 approximately six months after the application was received and
19 approved by the commissioner.

20 (e) The commissioner shall issue to each applicant who is
21 granted a special registration plate or windshield placard an
22 identification card bearing the applicant's name, assigned
23 identification number and expiration date. The applicant shall
24 thereafter carry this identification card on his or her person

1 whenever parking in an accessible parking space. The identification
2 card shall be identical in design for both registration plates and
3 removable windshield placards.

4 (f) An accessible parking space should comply with the
5 provisions of the Americans with Disabilities Act accessibility
6 guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In
7 particular, the parking space should be a minimum of eight feet
8 wide with an adjacent eight-foot access aisle for vans having side
9 mounted hydraulic lifts or ramps or a five-foot access aisle for
10 standard vehicles. Access aisles should be marked using diagonal
11 two to four-inch wide stripes spaced every twelve or twenty-four
12 inches apart along with the words "no parking" in painted letters
13 which are at least twelve inches in height. All accessible parking
14 spaces must have a signpost in front or adjacent to the accessible
15 parking space displaying the international symbol of access sign
16 mounted at a minimum of eight feet above the pavement or sidewalk
17 and the top of the sign. Lines or markings on the pavement or
18 curbs for parking spaces and access aisles may be in any color,
19 although blue is the generally accepted color for accessible
20 parking.

21 (g) A vehicle from any other state, United States territory or
22 foreign country displaying an officially issued special
23 registration plate, placard or decal bearing the international
24 symbol of access shall be recognized and accepted as meeting the

1 requirements of this section, regardless of where the plate,
2 placard or decal is mounted or displayed on the vehicle.

3 (h) Stopping, standing or parking places marked with the
4 international symbol of access shall be designated in close
5 proximity to all public entities, including state, county and
6 municipal buildings and facilities, places of public accommodation
7 and commercial facilities. These parking places shall be reserved
8 solely for persons with a mobility impairment at all times.

9 (I) Any person whose vehicle properly displays a valid,
10 unexpired special registration plate or removable windshield
11 placard may park the vehicle for unlimited periods of time in
12 parking zones unrestricted as to length of parking time permitted:
13 *Provided*, That this privilege does not mean that the vehicle may
14 park in any zone where stopping, standing or parking is prohibited
15 or which creates parking zones for special types of vehicles or
16 which prohibits parking during heavy traffic periods during
17 specified rush hours or where parking would clearly present a
18 traffic hazard. To the extent any provision of any ordinance of
19 any political subdivision of this state is contrary to the
20 provisions of this section, the provisions of this section take
21 precedence and apply.

22 The parking privileges provided ~~for~~ in this subsection apply
23 only during those times when the vehicle is being used for the
24 loading or unloading of a person with a mobility impairment. Any

1 person who knowingly exercises, or attempts to exercise, these
2 privileges at a time when the vehicle is not being used for the
3 loading or unloading of a person with a mobility impairment is
4 guilty of a misdemeanor and, upon first conviction thereof, in
5 addition to any other penalty he or she may otherwise incur, shall
6 be fined \$200; upon second conviction thereof, in addition to any
7 other penalty he or she may otherwise incur, shall be fined \$300;
8 and upon third and subsequent convictions thereof, in addition to
9 any other penalty he or she may otherwise incur, shall be fined
10 \$500.

11 (j) Any person whose vehicle does not display a valid, special
12 registration plate or removable windshield placard may not stop,
13 stand or park a motor vehicle in an area designated, zoned or
14 marked for accessible parking with signs or instructions displaying
15 the international symbol of access, either by itself or with
16 explanatory text. The signs may be mounted on a post or a wall in
17 front of the accessible parking space and instructions may appear
18 on the ground or pavement, but use of both methods is preferred.
19 Accessible parking spaces for vans having an eight-foot adjacent
20 access aisle should be designated as "van accessible" but may be
21 used by any vehicle displaying a valid special registration plate
22 or removable windshield placard.

23 Any person who violates the provisions of this subsection is
24 guilty of a misdemeanor and, upon conviction thereof, shall be

1 fined \$200; upon second conviction thereof, in addition to any
2 other penalty he or she may otherwise incur, shall be fined \$300;
3 and upon third and subsequent convictions thereof, in addition to
4 any other penalty he or she may otherwise incur, shall be fined
5 \$500.

6 (k) All signs that designate areas as " accessible parking" or
7 that display the international symbol of access shall also include
8 the words "Up to \$500 fine".

9 (l) No person may stop, stand or park a motor vehicle in an
10 area designated or marked off as an access aisle adjacent to a van-
11 accessible parking space or regular accessible parking space. Any
12 person, including a driver of a vehicle displaying a valid
13 removable windshield placard or special registration plate, who
14 violates the provisions of this subsection is guilty of a
15 misdemeanor and, upon conviction thereof, shall be fined \$200; upon
16 second conviction thereof, in addition to any other penalty he or
17 she may otherwise incur, shall be fined \$300; and upon third and
18 subsequent convictions thereof, in addition to any other penalty he
19 or she may otherwise incur, shall be fined \$500.

20 (m) Parking enforcement personnel who otherwise enforce
21 parking violations may issue citations for violations of this
22 section and shall reference the number on the vehicle's license
23 plate, since the driver normally will not be present.

24 (n) Law-enforcement agencies may establish a program to use

1 trained volunteers to collect information necessary to issue
2 citations to persons who illegally park in designated accessible
3 parking spaces. Any law-enforcement agency choosing to establish
4 a program shall provide for workers' compensation and liability
5 coverage. The volunteers shall photograph the illegally parked
6 vehicle and complete a form, to be developed by supervising law-
7 enforcement agencies, that includes the vehicle's license plate
8 number, date, time and location of the illegally parked vehicle.
9 The photographs must show the vehicle in the accessible space and
10 a readable view of the license plate. Within the discretion of the
11 supervising law-enforcement agency, the volunteers may issue
12 citations or the volunteers may submit the photographs of the
13 illegally parked vehicle and the form to the supervising law-
14 enforcement agency, who may issue a citation, which includes the
15 photographs and the form, to the owner of the illegally parked
16 vehicle. Volunteers shall be trained on the requirements for
17 citations for vehicles parked in marked, zoned or designated
18 accessible parking areas by the supervising law-enforcement agency.

19 (o) Local authorities who adopt the basic enforcement
20 provisions of this section and issue their own local ordinances
21 shall retain all fines and associated late fees. These revenues
22 shall be used first to fund the provisions of subsection (n) of
23 this section, if adopted by local authorities, or otherwise shall
24 go into the local authorities' General Revenue Fund. Otherwise,

1 any moneys collected as fines shall be collected for and remitted
2 to the state.

3 (p) The commissioner shall prepare and issue a document to
4 applicants describing the privileges accorded a vehicle having a
5 special registration plate and removable windshield placard as well
6 as the penalties when the vehicle is being inappropriately used as
7 described in this section and shall include the document along with
8 the issued special registration plate or windshield placard. In
9 addition, the commissioner shall issue a separate document
10 informing the general public regarding the new provisions and
11 increased fines being imposed either by way of newspaper
12 announcements or other appropriate means across the state.

13 (q) Notwithstanding any provision in this section to the
14 contrary, a disabled veteran operating a vehicle bearing a disabled
15 veteran special registration plate issued pursuant to section
16 fourteen, article three, chapter seventeen-a of this code may park
17 that vehicle in a designated accessible parking space without an
18 accessible parking special registration plate or windshield
19 placard.

20 ~~(q)~~ (r) The commissioner shall adopt and promulgate rules in
21 accordance with the provisions of article three, chapter twenty-
22 nine-a of this code.

NOTE: The purpose of this bill is to allow a disabled veteran operating a vehicle bearing a disabled veteran special registration plate to park in a designated accessible parking space without an accessible parking special registration plate or windshield placard.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.